

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ARCH SPECIALTY INSURANCE
COMPANY,

Plaintiff,

-against-

AB CAPSTONE BUILDERS CORP.,

Defendant.

MEMORANDUM AND ORDER

Case No. 24-CV-3522

For the Plaintiff:

VITALY VILENCHIK

DAC Beachcroft LLP

55 Broadway, Suite 1602

New York, NY 10006

BLOCK, Senior District Judge:

On July 18, 2024, the Court referred to Magistrate Judge Vera M. Scanlon a motion for default judgment by Arch Specialty Insurance Company (“Plaintiff” or “Arch”) in this breach-of-contract action against AB Capstone Builders Corp. (“Defendant” or “AB Capstone”).

On March 14, 2025, Magistrate Judge Scanlon issued a Report & Recommendation (“R&R”) recommending the Court grant Plaintiff’s motion. The R&R gave the parties fourteen days to file objections, i.e., until March 28, 2025, and warned that “[f]ailure to file objections within fourteen days will preclude further review of this [R&R].” ECF No. 16, at 16. No objections have been filed. If

clear notice has been given of the consequences of failing to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (“Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” (citations omitted)). The Court will, however, excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Accordingly, the Court adopts the R&R without *de novo* review. The Court enters judgment against Defendant for \$122,656.14, with pre-judgment interest on that amount accruing from May 1, 2022, plus an additional \$583.10 in costs to Plaintiff.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
March 31, 2024